

## **MINUTES**

### **MONTANA SENATE 56th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON RULES**

**Call to Order:** By **CHAIRMAN JOHN HARP**, on March 16, 1999 at 9:45 A.M., in Room 405 Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. John Harp, Chairman (R)  
Sen. Bruce Crippen, Vice Chairman (R)  
Sen. Tom A. Beck (R)  
Sen. Vicki Cocchiarella (D)  
Sen. Steve Doherty (D)  
Sen. Lorents Grosfield (R)  
Sen. Mike Halligan (D)  
Sen. Don Hargrove (R)  
Sen. Linda Nelson (D)  
Sen. Chuck Swysgood (R)  
Sen. Mike Taylor (R)  
Sen. Fred Thomas (R)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Greg Petesch, Legislative Branch  
Fredella D. Haab, Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) March 16, 1999 & Date(s) Posted: March 10, 1999

Executive Action:

**CHAIRMAN HARP** stated that it would be a very informal meeting. The question we have today was that we have two bills - Senate Bill 263 which was introduced by **SENATOR HOLDEN** which never left the Senate and we have House Bill 181 which passed the House and referred to the Rules Committee. The question was whether these bills were identical or similar bills and has the issue been

acted on this Session. We are not going to talk about the merits of the bill. If this committee decides to move this bill and refer it to a standing committee then there would be a full hearing in that area.

**Greg Petesch** stated that Joint Rule 40-70 provides that a bill may not be received in a House after that House during that Session has finally rejected a bill designed to accomplish the same purpose except with the approval of the Rules Committee of the House in which the bill is offered for reception. That was the purpose. He was asked if these bills were designed to achieve the same purpose and he believed that they are designed to achieve the same purpose and he believed that the purpose was to require consumer consent.

**CHAIRMAN HARP** stated that regardless whether they were similar because it was the Chamber receiving this bill, the Rules Committee still has the authority to accept it and allow it into the Senate. He asked for discussion.

**SENATOR MIKE HALLIGAN** asked **Greg Petesch** when they added the provision except with the approval of the Rules Committee. He thought it was an absolute prohibition at some point in the Rules. In the past they did not allow a House to receive a bill. There was no ability of the Rules Committee to even entertain it and to say yes it was the same issue but it can't come over.

**Greg Petesch** said he didn't remember the exact date. He thought it was about two sessions ago. His recollection was they use to suspend the rules to allow this when we choose to so we came up with this procedure. It was so you would not use Floor time when this issue arose.

**CHAIRMAN HARP** asked if there was anything else on this issue.

**SENATOR HALLIGAN** said it does use more time up. He guessed the leaders and others have had to deal with the issues in the Rules and then in the committee, etc. He thought the old rule was better and under the auspices of 95 we had the sales tax going back and forth and things like that.

**SENATOR VICKI COCCHIARELLA** asked how this happened. Wasn't there some language other than 40-70 related to the same topic issue where we have revisions or constitutional language or there was something that says the same topic can't be dealt with.

**Greg Petesch** stated he was aware of only this rule.

**CHAIRMAN HARP** asked for further discussion just on that question. Would there be any objection from the committee if we allowed questions and discussion on the issue of the difference? Regardless if there wasn't a difference, the Rules Committee can still allow the bill into the Senate. It will be a very brief discussion, **SENATOR RIC HOLDEN**, on the differences that you see between House Bill 181 and Senate Bill 263.

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**SENATOR HOLDEN** asked if everyone had a copy of both bills and the outline he had prepared. He had identified seven different areas of differences between the two bills. **EXHIBIT(rus61a01)**.

**CHAIRMAN HARP** asked if there were any questions for **SENATOR HOLDEN**?

**SENATOR LORENTS GROSFIELD** asked **SENATOR HOLDEN** if his bill was narrow. The argument that you presented was that it was two different bills. Since you are the sponsor of the narrower bill it would seem to me that you would try to narrow this bill up and if you did that, it would look just like the bill that was rejected.

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**SENATOR HOLDEN** stated that first of all he didn't sit on that committee so he wouldn't probably be offering any amendments. That would be a public policy decision to be made by the Legislature and whatever that committee would decide to do at that point, would be up to them. If they wanted to accept amendment to narrow the scope of the bill or not. As of today, we are just looking at what differences are in these two bills.

**SENATOR VICKI COCCHIARELLA** stated that she was on the Business and Industry Committee and they did hear Senate Bill 263 and some of the language in there was some of the language she proposed. She thought that this was no different from having two sales tax bills. It seemed that she didn't want to bring this burden back to the committee. On the other hand she thought it was very appropriate that House Bill 181 be accepted by the Senate and she so moved.

**Motion:** **SEN. COCCHIARELLA** moved **HOUSE BILL 181 BE ACCEPTED BY THE SENATE.**

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**PRESIDENT BRUCE CRIPPEN** thought they should have something on the opposing side if there was anyone there opposing it.

**SENATOR TOM BECK** said they were just determining whether we were going to hear the bill or not and he thought the hearing on the bill was where you will get the testimony on the bill.

**CHAIRMAN HARP** stated that they had talked about two things as they started this meeting and they were:

1. The Rules Committee can accept it even if they are similar.
2. We wanted to explore the differences between the bills and not the merit of the bill.

There were really two things going on here. He agreed with the President of the Senate that the question was on the table and before he asked for discussion on the motion and before we will move the motion we will allow somebody to speak for and against the bill.

**REPRESENTATIVE PAUL SLITER** thought it might speed things up if he could speak. He was willing to submit to the committee that the bills were similar and they sought to achieve the same purpose. He simply was asking the committee to accept his bill and asked it to be heard in the Senate Business and Industry. The Rules give you the power to accept the bill and that was what he was asking them to do.

**CHAIRMAN HARP** asked if anyone had a problem with hearing from the opposite side just on the merits of the bills. He would allow two speakers to speak four minutes a piece and then we will ask for some questions.

**Jon Metropolis, Farmer's Insurance Group**, had a handout that many had received yesterday. He thought **REPRESENTATIVE SLITER** was correct. He understood this was an extraordinary step and in light of the track record of the bill with the same purpose on the Floor of the Senate, they would argue that it was an extraordinary step that should not be taken. **EXHIBIT (rus61a02)**

**Dean Randash** said he was truly an innocent third party in the disagreement agreement between crash repair people and the insurance industry in this disagreement. We have good customers who are body shop people and we are right in the middle of it and we lose no matter how this bill goes. **EXHIBIT (rus61a03)**

**Mark Baker, National Association of Independent Insurers**, said the sponsors can testify that he supported both bills with

amendments. For those livelihoods that these issues affect, they were small businesses. If you hear this bill through the regular process again, small businesses are not only having to testify once in the Senate, not only having to testify once in the House, but now having to make the pilgrimage again the Senate taking at least a minimum of one day and probably several more than one day away from their small business to hear an issue they thought was already disposed. He would hope they would take into account that issue as well when you look at the rule and decide to grant the waiver or accept the bill in the Senate.

**Gary Spaeth, State Auditor's**, stated they have already had the differences in the bills laid out. You can possibly conclude that the bills have the same purposes. He went over yesterday afternoon and did an analysis and went through Masons and the other cases and you have a rule that somewhat differs from what appeared there. In other states and in Masons when you are looking at a rule the indication was that the Rules should be liberally construed so to effectuate the purposes of having bills like this heard because there are differences. He thought the recommendation would be from the analysis of the different materials he had researched that the recommendations should be that the bill should go forward. It was a matter of balancing legislative efficiency versus the differences, and because different people opposing it and supporting it there was a reasonable expectation that this bill would withstand a favorable hearing in the Senate. He also understood, having served on the Rules Committee, that it was the vote of the Rules Committee that really determines this issue. They requested that the Rules Committee exercise that discretion liberally in that instance.

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**Tom Daubert, Montana Collision Repair Specialists**, which was the statewide association whose members are automobile body shops in towns both large and small. He thought clearly the subject matter of the two bills was the same. They have some similarities and there was no question about it. You also have heard from **SENATOR HOLDEN** an explanation of numerous significant differences. From my perspective one of the biggest differences, if these bills were the same, if they had the same purpose and effect, my clients would be supporting both bills with equal vigor. They haven't been. They are anxious to have heard in the Senate House. He found it rather frustrating to hear that it would be a burden on small businesses if this bill was heard. Quite frankly the only small businesses that have been coming to testify on this bill are the ones he represented. They would urge you to allow this bill move forward for a fair hearing in the Senate.

**CHAIRMAN HARP** asked if there were any questions from the Committee on any testimony?

**PRESIDENT CRIPPEN** asked **REPRESENTATIVE SLITER** if he made the comment that "he would concede that it was an identical bill??

**REPRESENTATIVE SLITER** stated he would concede that the two bills go at the same purpose. The Rules says that except by the action of the Rules Committee the Senate can't accept House Bill 181 because they seek to achieve the same purpose. We have heard a lot of testimony and frankly he didn't want to waste their time telling you they don't seek to achieve the same purpose because, he thought they did. They achieved the same purpose in different ways. He thought the point that **Mr. Daubert** made was the fact that even though they seek to achieve the same purpose, his clients, the people that asked me to carry this legislation, didn't support **SENATOR HOLDEN'S** bill. That indicates to me that there was enough of a difference between the two that perhaps the Senate Rules Committee ought to at least allow for a hearing to take place in the Business and Industry Committee because clearly they do seek the same purpose but they go about it in different ways. There were different people that were in favor of my bill that weren't in favor of **SENATOR HOLDEN'S** and that may have some bearing on how the Senate views House Bill 181.

**SENATOR FRED THOMAS** stated that **SENATOR COCCHIARELLA** had the motion to accept House Bill 181 and she indicated some understanding that the Business and Industry Committee was willing to take the bill and hear it and deal with it to some degree.

**SENATOR COCCHIARELLA** stated she didn't quite say that. She said she would hate for them to have to take on an additional burden and to her it was like a sales tax bill where the idea is to raise so much revenue and you just go after it two different ways.

**SENATOR THOMAS** thought we should accept the bill. There are differences within though they deal with the same issue, there are still differences within and when we heard **SENATOR HOLDEN'S** bill on the Floor there was references to another bill that dealt with this and dealt with it in other ways. He felt that some thought this was the bill they wanted.

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**SENATOR HALLIGAN** thought they had talked about overall legislative conditions and that was why the rule was originally there. We have an efficient way to deal with our legislation,

but also the public was aware of what was going on and we are incurring their wrath. He thought that when you have the rule of the exception in here that the Rules Committee can have whatever leeway it wants to waive the requirement - let's say that part of the rule doesn't exist. The bill came over and someone who opposed the bill, can stand up on the Floor and they want it to go into the Rules and the Rules meets anyway. Whoever was in the majority can make the determination to do whatever the heck they want to do. You get into the Rules anyway no matter what and he would just argue that our record ought to reflect so that we have some future record on how we want to handle these things. It should have to be major pieces of legislation, the sales tax, big economic developments, things that are going to be likely quite similar but this was a little bill. We ought to make exception for large pieces of legislation with broad public policy and not for these kinds of bills. He would not support the motion to allow the bill to come over and he was not for or against the bill, it just doesn't fit with the circumstances.

**SENATOR TOM BECK** said the rule was quite clear. A bill may not be introduced or received in the House if was for the same purpose. He thought he would go along with **SENATOR HALLIGAN**.

**CHAIRMAN HARP** asked for further discussion. Seeing none, we will do a roll call vote.

**Vote:** Motion failed 5-7 with Harp, Thomas, Taylor, **COCCHIARELLA**, and Hargrove voting aye.

**CHAIRMAN HARP** asked for any further discussion.

**SENATOR COCCHIARELLA** stated she was pretty impressed with how it works downstairs when you have like subjects. It seemed like the informal process of informing another legislator there was similar subjects worked and if this was a rare occasion and maybe it was something that needs to be looked at down the road to insure that more of these situations don't start happening.

**SENATOR HALLIGAN** stated that **PRESIDENT CRIPPEN** said yesterday he thought really our caucuses have to have our people understand that when the bills come back and forth from the conference committees that you can amend any amendment or accept or receive as far as a regular conference committee and a lot of times they are going to try to sneak something that was not in those amendments. They really have to understand what a free conference committee does. Otherwise, stay within the primer of those amendments so we all know what was happening to those bills in those conference committees. If he were in the majority he

would really want to know that. It was just that a lot of mischief can be done in those committees.

**CHAIRMAN HARP** adjourned.



**ADJOURNMENT**

Adjournment: 10:20 A.M.

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SEN. JOHN HARP, Chairman

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Fredella D. Haab, Secretary

JH/fdh

**EXHIBIT**(rus61aad0.tif)